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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,213	11/13/2001	Ulrich Stimming	3245-695PCIP	7315
7590	01/19/2005		EXAMINER	
COHEN, PONTANI, LIEBERMAN & PAVANE Suite 1210 551 Fifth Avenue New York, NY 10176			CREPEAU, JONATHAN	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/054,213	STIMMING ET AL.
	Examiner	Art Unit
	Jonathan S. Crepeau	1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 02 October 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action addresses claims 1-9 and newly added claims 10-13. The arguments filed 10/22/04 are persuasive and the rejection over Fedkiw is withdrawn. However, new grounds of rejection are applied to the claims herein. As such, this action is non-final.

### ***Information Disclosure Statement***

2. It is noted that no Information Disclosure Statement has been filed in this application. If applicants wish to make the references of record that were made of record in the parent application (and not already made of record in this application), they are respectfully requested to file such an IDS.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkinson et al (U.S. Patent 6,096,448). Wilkinson is directed to methods of momentarily fuel starving an anode of a PEM fuel cell. Fuel starving is defined by Wilkinson as a rise in the anode voltage (see col. 6, line 20). The starvation is performed by one of three methods: halting

the fuel supply, introducing pulses of a non-reactant into the reactant stream, or connecting a transient load (see col. 3, lines 18 and 36; col. 4, line 23). Each of these methods would “impress” a positive voltage pulse on the anode. As shown in Figure 8, the voltage of the fuel cell does not change sign when the anode is fuel starved. Regarding claims 4, 5, and 8, the fuel cell may operate on reformed hydrocarbons, reformed methanol, or direct methanol (see col. 1, line 66, col. 2, line 27). Regarding claims 10 and 11, the extent to which the anode is fuel starved is controlled so that the fuel cell does not undergo cell reversal (see col. 7, line 21).

It is further noted that “means for impressing a positive voltage pulse on the anode” recited in claim 1 is considered to invoke 35 USC §112, sixth paragraph, whereas “the step of impressing” in claim 2 is *not* considered to invoke such (see MPEP §2181). Therefore, regarding claim 1, as the methods of Wilkinson achieve a momentary rise in the anode voltage, just as the methods disclosed in the instant specification do, the methods of Wilkinson are considered to be equivalents of the methods of the instant specification. As such, Wilkinson is anticipatory of claim 1. See MPEP §2183.

#### ***Claim Rejections - 35 USC § 103***

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson et al.

The reference is applied to claims 1-5, 8, 10, and 11 above. However, the reference does not expressly teach that the time period between pulses is varied in response to load changes.

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the disclosure of Wilkinson et al. would lead the artisan to the claimed subject matter. In column 4, line 47, the reference teaches that the frequency of the pulses may be adjusted in response to a monitored parameter. In column 7, line 55, it is disclosed that cell voltage, current, power output, poison concentration, and temperature may be monitored. Fluctuations in the load would affect one or more electrical characteristics of the fuel cell, e.g., the voltage. As such, the recitation of varying the pulse frequency in response to load changes is not considered to distinguish over the reference.

6. Claims 6, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson et al. in view of Applicants' admission of prior art.

Wilkinson et al. applied to claims 1-5, 8, 10, and 11 above. However, the reference does not expressly teach that internally reformed alcohols or hydrocarbons are used as the anode fuel, as recited in claims 6 and 7. Wilkinson et al. further do not explicitly teach that direct conversion of hydrocarbons takes place at the anode (claim 9).

On page 2 of the "Background of the Invention" section in the instant specification, Applicants admit that internally or externally reformed alcohols and hydrocarbons used as anode fuels are known.

Therefore, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because as exemplified by the admission in

Applicants' specification, internally or externally reformed alcohols and hydrocarbons are known for use in fuel cell systems and are suitable in this capacity. The artisan, being aware of these fuels and the means for reforming them, would therefore be motivated to modify the anode fuel and/or fuel cell of Wilkinson et al.

Regarding the limitation that direct conversion of hydrocarbons takes place at the anode, the artisan would possess sufficient skill to ascertain that that any unreacted hydrocarbons in a reformate stream would likely be converted directly on the anode. Accordingly, this limitation is not seen to distinguish over the Wilkinson et al. reference.

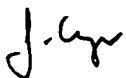
### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr, can be reached at (571) 272-1414. The phone number for the organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Crepeau  
Primary Examiner  
Art Unit 1746  
January 18, 2005